

**Ravalli County Planning Board  
Meeting Minutes for September 6, 2006  
7:00 p.m.  
Commissioners Meeting Room, 215 S. 4<sup>th</sup> Street, Hamilton, Montana**

**Public Hearing**

Roger Russ (Russ) Minor Subdivision and One Variance Request

**Plat Evaluation**

Sapphire Meadows (Kirschten) Major Subdivision and Two Variance Requests

*This is a summary of the meeting, not a verbatim transcript. A CD of the meeting may be purchased from the Planning Department for \$5.00.*

**1. Call to order**

**Dan** called the meeting to order at 7:09 p.m.

**2. Roll Call** (See Attachment A, Roll Call Sheet)

**(A) Members**

Mary Lee Bailey (present)  
Dale Brown (present)  
Ben Hillicoss (absent – excused)  
Dan Huls (present)  
JR Iman (present)  
Chip Pigman (absent – excused)  
Les Rutledge (present)  
Lori Schallenberger (present)  
Gary Zebrowski (present)

Park Board Representative: Bob Cron (present)

**(B) Staff**

Jennifer De Groot  
Karen Hughes  
John Lavey  
Tristan Riddell  
Renee Van Hoven

**3. Approval of Minutes**

**Dan** asked if there were any corrections or additions to the minutes from August 16, 2006.

**Gary** clarified a statement that Ben Hillicoss said he made regarding density zoning and corridor beautification. The minutes were approved as corrected by Gary.

**4. Amendments to the Agenda**

There were none.

5. **Correspondence**

There was none.

6. **Disclosure of Possible/Perceived Conflicts**

**Lori** recused herself from the Roger Russ Subdivision discussion and decision.

7. **Public Hearing**

(A) **Roger Russ (Russ) Minor Subdivision and One Variance Request**

- (i) Staff Report on the Subdivision Proposal: **Tristan Riddell** gave a PowerPoint presentation. He gave an overview of the proposal and stated Staff recommended denial of the variance and approval of the subdivision subject to 13 conditions in the Staff Report. He entered the Staff Report into the record. (See Attachment B, Roger Russ Subdivision Staff Report)

- (ii) Three Minute Rule Waivers

**Lee Yelin** of Water Rights, Inc., submitted a request to speak for 10 minutes to ask questions about irrigation issues. (See Attachment C, Lee Yelin Three Minute Rule Waiver)

**Dan** recommended granting the waiver. The Board agreed to grant 10 minutes of speaking time to Lee Yelin.

- (iii) Public Comment on the Subdivision

- (a) Persons in Favor

**John Kellogg** of PCI explained that the subdivision is located on Middle Burnt Fork Road and North Burnt Fork Road and that most of the area is relatively flat. He noted that most of the utility lot is over 25% grade so the developer has proposed a no-build zone over most of Lot 4 and a 500-foot swath on North Burnt Fork Creek. He stated that the flow of North Burnt Fork Creek is limited because of culverts, but in the event of an overflow, the culvert will direct flow down Middle Burnt Fork Road.

He noted where the proposed accesses are located and noted his strong opposition to Staff's recommendation to deny the variance. He noted that the driveways the developer proposed are short, but if the variance is denied, the developer would have to punch a road across the irrigation ditch for central access. He observed that the proposed access is four to five miles up Middle Burnt Fork Road and development past the proposed subdivision is relatively sparse. He commented that an additional access off Middle Burnt Fork Road is not creating a hazard because the accesses are widely spaced.

He stated that if the variance is denied, the applicant will have to pay \$80,000 to \$100,000 to create an internal subdivision road, which will create a severe impact on the proposal to subdivide. He noted that other than the variance

recommendation by Staff, the developer agrees with the recommended conditions in the Staff Report.

He went through the six criteria for subdivision review. He noted that the subdivision will have a relatively small impact on agriculture, although the flat land was used for grazing and hay land off and on. He said that there will be no impacts on water user facilities and an irrigation ditch will still run through the property. He noted that the proposal is to divide irrigation rights to the three lots and all lots will have access to the irrigation ditch. He commented that the subdivision is within 4.5 miles of schools and fire protection. He doubted that the subdivision will have any impacts on the natural environment due to the character of the area, with low-density homes. He noted that there is no known critical wildlife habitat on or near the subdivision. He explained that there are no undue hazards from access to the BRID canal north of the property. He again stated his recommendation for approval of the variance and subdivision.

**Gary** asked how many accesses were proposed off Middle Burnt Fork Road.

**John Kellogg** said there was only one and stated that the developer received preliminary approval from the Road and Bridge Department for that access.

**Gary** asked the line of sight for the access.

**John Kellogg** answered that it is probably over 800 to 900 feet each direction from the south access.

(b) Persons Opposed

**Lee Yelin**, Water Rights, Inc., stated that he represents Diane Rupert and Thomas and Paul Kink. He noted that his clients are not against the subdivision, but have concerns and questions about the water rights. He said that the subdivision application contains a lot of inaccuracies. He noted that the irrigation ditch to the south of the property is owned by the Kinks. He explained that the southern ditch could never have flooded or irrigated the property in question. He said that an area in the center of the lot is a return-flow. He noted that the Russ' have water rights out of North Burnt Fork Creek and asked that they note that on the irrigation plan. He asked how the developer could say that each lot would receive 1/3 of the water rights, when the property has not used water rights in 20 years. He said he wants to protect Diane's water right, which is dated 1852. He noted that she runs out of water every year.

(c) Rebuttal

**John Kellogg** said he never intended to use the ditch on the southwestern corner. He noted that historically, they had used the central ditch for irrigation, but they could subordinate that right if someone else owns it.

**Lee Yelin** commented that he is not saying the subdivision cannot use the return flow, however he prefers them to reuse the old ditch than take spring waste and seepage water.

**John Kellogg** asked where the ditch originates and said he believes they can work out an agreement.

**Lee Yelin** said that as long as the developers do not take his clients' water rights, they will not have a problem.

**Joede Vanek** said that he owns 33 acres above the subdivision on the hill and is concerned about the non-buildable utility lot. He asked if the lot will turn into a dead storage vehicle lot or a junkyard. He noted that tracts in the area range from 20 acres to 500 acres. He noted that although there is a large elk herd in this area, this subdivision will not affect it. He said that the 60-foot road easement on proposed Lot 4 goes to his parcel. He had thought about paving North Burnt Fork Road, but it was expensive. He said he hoped the Board would make the developer pave the road because the County will not. He offered that if the developer paved a portion of the road within the subdivision, he would discuss paving the rest of the road to his property.

(d) Close: Public Comment

(iv) Board Deliberation on the Variance Request (from building an internal road)

(a) Board discussion and questions

**Les** said he visited the lot this morning and noted that because of overgrown weeds, he could not tell if the ditch was more than just drainage. He asked if the ditch was a ditch or just a drainage.

**John Kellogg** said that it is a natural low area and used to transport irrigation water. He believed it had been excavated.

**Les** said that it could have been smoothed out. He voiced concerns about the high water table in the area and asked if the subdivision will use above-ground septic systems. He said he was also concerned that water will spread from the southeast to the northwest.

**John Kellogg** noted that the sites passed groundwater monitoring. He commented that two of the sites are shallow-capped systems. He noted that there is a channel where water flows through the center of property and it has been excavated in the past. He did not believe that water would spread and said that most of it would follow a channel through the property.

**Les** asked if Lots 1 and 2 were required to be above-ground sand mound septic systems.

**John Kellogg** noted that the systems were designed to match the depth of the groundwater. He said he did not have the DEQ application with him, but the Environmental Health Department granted approval of the systems.

**Bob** asked if the portion of North Burnt Fork Road which has to be improved has to be paved.

**Tristan** responded that it would.

**JR** asked the distance on the south side of the subdivision along Middle Burnt Fork Road and if they have proposed a non-ingress/egress zone for Lot 1.

**John Kellogg** answered that the distance is approximately 1300 feet and that all of Lots 1 and 2 were proposed with a non-ingress/egress zone except the driveway.

**Dale** asked if the developer understood that he has to pave North Burnt Fork Road.

**Les** noted that Condition 13 requires the internal road easement to be labeled as a public road and utility easement on the final plat.

**Renee** noted that there would need to be an additional internal road to serve Lot 2 to meet the requirement that all lots are served off an internal road.

**Les** said the Condition should be clarified.

**John Kellogg** said the developer is proposing short access driveways from existing roads and said that Staff's recommendation would create a bigger impact because of the internal road to be built. He said that shorter driveways create less impact and make the most sense. He noted that if the Board agreed with Staff, it would kick up the status of North Burnt Fork Road and they would have to pave the road or ask for a variance.

**Bob** noted that Staff has recommended paving of North Burnt Fork Road.

**Dale** said that if the developer could get with Joede Vanek, he could drop the road into Lot 2.

**John Kellogg** said that after the application was turned in, Staff spoke with the Deputy County Attorney and decided that Lot 4 is to be considered a unit, thus triggering pavement of North Burnt Fork Road. He noted that the developer and consultant were not aware of the issue or they would have asked for the variance before. He noted that the developer will have to request a variance. He noted that additional traffic will not be created by the utility lot. He commented that it was only in the Staff Report that the Road Department requested that all accesses be off North Burnt Fork Road, which triggers paving.

**Les** said that there is a downgrade from the roadbase to the property on North Burnt Fork Road. He said that if the driveways are not paved and traffic tries to enter onto North Burnt Fork Road, it presents a traffic hazard.

**John Kellogg** said that the approach permit from the Road Department would require some fill at that location and a raised access.

**Les** said his concern is that the Subdivision Regulations say the access has to be off a lower-grade road, which necessitates a new internal road and connection from Lots 1 and 3. He suggested having the internal road and North Burnt Fork Road paved.

**John Kellogg** noted that is what they are requesting a variance from and noted that costs increase significantly if the developer is required to pave any roads.

**JR** asked if the County has definitions or restrictions that permit Lot 4 from being built upon. He asked why the Board should recommend creation of the lot when it is for the convenience of the individual so he can leave it off the tax rolls.

**John Kellogg** said that Roger will probably sell the area to one of his adjoining neighbors. He said that the developer would probably agree to restrict unsightly storage. He noted that there is a building prohibition on the lot.

**JR** said that if the lot is not buildable because of 25% slopes, by definition, it is not buildable. He added that if it is not buildable, it is not part of the subdivision and there are only three lots being created.

**Renee** read the definition of “unit” from Chapter 2 of the Subdivision Regulations. She noted that the easement through the lot was used by BRID and because they are a commercial entity, the County Attorney’s office said it was considered a unit.

**Joede Vanek** noted that there is gate at the bottom of the lot and BRID is not using that access.

**Lori** noted that one of the developer’s neighbors had approached him about buying the land and if it was attached to another lot, he could not have sold it. She explained that the developer did not intend for the non-buildable lot to be counted as a lot and noted it would be more beneficial for neighbors to use the property.

**Paul Wilson** noted that BRID accesses the ditch off Iron Cap.

**Dan** said that the developer could cut costs by joining with Joede Vanek or by chip-sealing instead of paving.

**John Kellogg** said he had not heard of this requirement until tonight. He noted that the current variance request is from creating an internal road and allowing access of Lot 2 off Middle Burnt Fork Road. He noted that they will be requesting a variance from paving North Burnt Fork Road. He noted the developer’s preference to have Lot 2 access off Middle Burnt Fork and the designation of Lot 4 as a non-commercial lot. He noted that under Staff’s recommendation, all of North Burnt Fork Road would have to be paved.

**Les** asked if a hard-surfaced road would meet the requirements.

**Renee** said that all roads serving three to five units shall be hard-surfaced and meet County Standards.

**John Kellogg** said many residences use North Burnt Fork Road. He said that the developer will have to pave North Burnt Fork Road unless he asks for a variance.

**Mary Lee** noted that the requirement was for three to five lots, but there are only two lots using that access with the removal of Lot 4.

**Renee** explained that Staff sees Lot 4 as a commercial lot. She noted that up until now, they thought BRID used the lot and they will have to consult with the County Attorney to see if the lot can be excluded. She asked the Board not to consider that now.

**Les** said that because there are a number of things the Board does not know about and several approaches that would relieve the developer of costs, he asked for deferral of action on the variance.

**Dan** asked if the developer would consider withdrawing the application and resubmitting it.

**John Kellogg** said he prefers not to resubmit if the Board can resolve access to Lot 2. He said the paving question could be addressed later.

**Dale** said that David Ohnstad noted that granting the variance may be detrimental to public health and safety.

**Joede Vanek** said that if the variance is granted, the developers say they will not have to pave the road. He noted that paving is hanging on a variance. He acknowledged that the area is rural, but said it would be more dangerous to bring another driveway 600 feet from a major intersection. He noted that he has offered to pave part of North Burnt Fork Road from the beginning of his property up to his house. He recommended having all the subdivision traffic access off North Burnt Fork Road because it is more rural and less of a safety hazard.

**Tristan** noted that even if the Board grants the variance, North Burnt Fork Road will still have to be paved until there is a determination about Lot 4. He noted that as of now, there are three lots that access off the road.

**JR** noted that on Highway 93, people can still get an access if there is not another one for a quarter of a mile. He said that Tract 2 from its home site is at least 800 feet to the home site on North Burnt Fork Road and 75 feet from Middle Burnt Fork Road. He concluded that the developer should be able to receive an access off North Burnt Fork Road.

The Board went through the Five Criteria.

**JR** motioned to grant the variance based on the review criteria.

**Gary** seconded the motion.

(b) Board action

(1) Review of the Variance Request against the Five Criteria

1. The granting of the variance will not be substantially detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.

Five Board Members agreed; one disagreed.

2. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.

Five Board Members agreed; one disagreed.

3. Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).

Five Board Members disagreed; one abstained.

4. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.

Five Board Members agreed; one disagreed.

5. The variance will not cause a substantial increase in public costs.

Five Board Members agreed; one disagreed.

(See Attachment D, Roger Russ Five Criteria Review Sheet)

## (2) Board Decision

The vote was called; the members voted (5-1) to approve the Variance. (See Attachment E, Roger Russ Variance Vote Sheet)

## (v) Board Deliberation on the Subdivision Proposal

### (a) Board discussion and questions

**Gary** affirmed that since Lot 4 is classified as a unit, the internal road would need to be paved and that if the subdivision was approved tonight, it would require paving or a variance request.

**JR** asked if Vanek's access is his only access and if it was legal.

**Joede Vanek** noted it was his only access.

**JR** asked if it is specifically across BRID property and if BRID owns the canal in that area.

**Joede Vanek** said he thinks it does and noted that BRID created a split in the property.

**Dan** asked if Vanek had a recorded easement for his driveway.

**Joede Vanek** said he does and it is in the north where the driveway starts.



**Karen** noted that Staff just heard there is a recorded easement they do not have a record of to date.

**John Kellogg** said that what they are talking about is an easement across BRID, which is not part of the subdivision.

**Joede Vanek** noted that the easement is a 60-foot public road and utility easement.

**Renee** noted that Staff understood it was a private easement to BRID because that is what the preliminary plat states.

**Karen** noted that if the lot and something else is accessing the easement, then it is considered a road.

**JR** motioned that the Board believes Lot 4 is not a buildable lot and does not meet the definition of “unit” according to Subdivision Regulations in place today.

**Gary** noted that the other part of the definition says it is not for commercial use, which is why James McCubbin said it should be considered a unit. He noted that it is not buildable because of the slope, but the commercial use issue has not yet been resolved.

**Dan** noted that according to testimony, the gate is locked and there are other means for BRID access.

**JR** said the smartest thing to do is have two motions. He said that according to the current definition, Lot 4 is not a buildable lot under County regulations. He noted that if he owned an easement, he would not give it up even if he did not use it. He noted that the BRID canal is not commercial.

**Gary** said he believed the commercial lot should be resolved by attorneys.

**JR** motioned that Lot 4 should not be considered buildable at this time according to the definition of “unit.”

**Dale** seconded the motion.

The vote was called; the Board unanimously approved the motion.

**Les** said that according to the Subdivision Regulations, there should not be confusion because the lot is commercial by definition.

**Gary** said that the Board was told it was not being used commercially, so he asked for clarification.

**Les** motioned approval of the subdivision with the exclusion of Conditions 8 and 13, that the contribution to the Stevensville School District be \$250 per unit prior to final plat approval and the contribution to the Fire Department be \$500 per unit prior to final plat approval.

**Gary** seconded the motion.

(b) Board action

(1) Review of Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion and findings with the Staff Report.

(2) Board Decision

The vote was called; the members voted (6-0) to approve the Subdivision. (See Attachment F, Roger Russ Subdivision Vote Sheet)

8. **Close Public Hearing**

9. **Plat Evaluation**

(A) **Sapphire Meadows (Kirschten) Major Subdivision and Two Variance Requests**

(i) Presentation by Gordon Sorenson, Gordon Sorenson Engineering

**Gordon Sorenson** said he was the agent for Joe and Nadia Kirschten. He noted the proposal was to take 30 acres on Stevensville Airport Road and turn it into 15 two-acre lots. He said that in the past, the land was used for pasture and hay and was irrigated, but Mr. Kirschten sold the water rights back to the ditch company, retaining a two-acre water right for Lot 1. He noted that an irrigation ditch on the south side of the property will not be affected, and the ditch that runs on the west property line will serve the lot with water rights, so an easement from the other ditch will not be needed. He purported that the building sites are all suitable. He noted that the site passed groundwater monitoring. He explained that DEQ is waiting on comments from the Public Hearing. He said that two variances are requested: one for a flag lot and the other for an internal road. He said that the flag lot is not being created to avoid road construction. He said that Lot 2 is the former home of the Kirschtens, who built a new home and want to give Lot 2 to their daughter. He noted that the house and outbuildings are oriented to a west access and the 30-year-old driveway is intended to be left intact to serve the existing house. He said that the Subdivision Regulations say that all lots are to be accessed from an interior road. He said that Lot 1 will access off the same driveway and the developer is not trying to avoid road construction by requesting the driveway variance.

(ii) Public Comment

There was none.

(iii) Board Discussion and Questions

**Lori** asked what improvements were required on Stevensville Airport Road.

**Gordon** said that only pro-rata is required.

**Tristan** noted that the regulations only require pro-rata for external roads, but the internal road will have to be paved.

**Les** asked the width and condition of the existing driveway.

**Gordon** said it is 30 feet and they are providing an easement onto Lot 1 for the other half. He noted it is an unimproved, single track. He said that a fire truck could access the houses and that Mr. Kirschten turns his 18-wheeler in there now.

**Dan** asked if the irrigation ditches will be altered in any way.

**Gordon** said they are not proposing to alter the ditch, but they are putting in culvert crossings.

**Dan** said that since water is gone, they will have to keep two acres green from a well.

**Gordon** said that wells in that area are generally 300 to 350 feet deep and pump 12 to 30 gallons per minute.

**Les** said he believed that the well logs are complete and nothing falls below the pumping requirement.

**Dale** asked why the access was considered a driveway.

**Tristan** explained that it would be a common access for two lots.

#### 10. **Communications from Staff**

- (A) Update on Aspen Springs and poll to find out how many members can make a special meeting on Wednesday, September 27, 2006.

**Renee** said that the County Commissioners received three new information items regarding Aspen Springs and they sent that information back to the Planning Board. She noted that they have tentatively scheduled the meeting for September 27, at 7:00 p.m. at the Ravalli County Fairgrounds.

**Gary** confirmed that it is only to discuss the new information.

**Lori** asked if 200 people could comment on the new information.

**Karen** said that they have been advised that if people veer off the subject, the Board can cut off their comments. She noted that the Board could create a public comment period for things not on the agenda.

**Gary** asked if the subdivision is subject to another vote after reviewing the new information.

**Renee** said that Staff will write a report saying which subdivision criteria and variances were affected. She noted that the new information may have changed how the Board voted so the Board needs to discuss it.

#### 11. **Communications from Public**

There were none.

## 12. Communications from Board

**Dale** said that he heard from John McGee that a lady proposing a subdivision in the Eight Mile area offered \$5,100 per lot to the School District.

**Paul Wilson** noted that school donations are voluntary because there are no impact fees in the County. He said that if someone offered \$50, the Board cannot make them pay more than that.

**Dale** said he was hopeful the situation would change.

**Les** said that Ben Hillicoss agreed to be the chair of the Land Use Subcommittee and wanted to start holding meetings next week.

**Dan** recommended setting up the meeting through email.

**Gary** said he would stay on the Board until October or they found a replacement for him.

## 13. New Business

### (A) Discussion and possible recommendation on US Highway 93 Corridor Interim Zoning

(See Attachment G, Email from Ben Hillicoss regarding the zoning emergency and the Area 3 Plan)

**Karen** said that the Montana Department of Transportation (MDT) approached the County last year and wanted to work with the Land Use Law Clinic to look at land-use planning along the US Highway 93 Corridor. The County and Land Use Clinic looked at a swath of a mile on each side and made general suggestions for future planning/potential zoning, none of them regulatory. The County Commissioners accepted the study and it is available at the Planning Department. She said she thought the results were interesting. She noted that the Commissioners said that doing further planning was important, but was not at the top of the priority list. She said that the County Commissioners met in July or August about zoning and decided that they wanted more detailed planning and zoning along the corridor. They then asked the Board if interim zoning was needed. She noted that the Commissioners are authorized to enact zoning as an emergency measure. She noted that the Commissioners discussed traffic flow, access, wildlife issues, etc. She said that the Commissioners noted that if there is an emergency, the nature of the emergency should drive interim zoning. She said that the County Commissioners would like feedback about the priority of land-use planning and zoning on the corridor in general.

**Gary** said he does not see the issue as an emergency, but noted if the County does not start working on zoning, it will turn into an emergency. He suggested creating beautification and landscaping zoning along the corridor, which could be finished by spring or summer. He recommended working on density zoning along the corridor parallel to the beautification zoning and noted that density zoning will take longer and be more complicated.

**Les** said that in rereading the executive summary, it was clear from 40 written responses that lots of respondents believed the County should move forward with a land-use plan,

but there was nothing in the way of definitive comments about an emergency nature of the Highway 93 corridor. He noted that some comments were made regarding concerns that land-use planning was necessary, if not long overdue. He noted that on the other hand, respondents and those making comments concluded that Highway 93 planning is only part of a land-use planning strategy and the County should move forward with it all. He noted that is what the Land Use Subcommittee is trying to do.

**Lori** said she did not believe there is an emergency. She noted that in Betty's email, she seemed to be asking for design standards, but she did not feel that the Commissioners considered it an emergency either. She said that at the meetings she attended, comments were dominated by two people and not those who owned property on the corridor. She suggested outreach to the people who live there.

**Dale** said that Gary and Les summed up his comments: Zoning should be in action or it will become an emergency. He suggested that zoning should be in place by the time the Bridge is completed.

**Bob** supported giving zoning a high priority.

**Gary** said that this is an opportunity to accept design standards along the corridor and parallel with working in a bigger picture to show some outcome to their work and efforts. He noted that people are waiting to see something come from the Board and Commissioners along the corridor.

**Karen** said it would be great to hear from John Horwich and others who would like to speak. She noted that the Land Use Law Clinic has considered helping develop zoning if the County and Board were interested. She explained that the Law Clinic could give the County something to respond to instead of starting from a blank slate. She noted that parameters could be worked out.

**Dan** said he agrees with Lori that the County has to involve landowners along the highway and other County residents.

**Gary** suggested that the priority should be bumped up – not as an emergency, but as a high priority work item.

**John Horwich** said he is the Director of the Land Use Clinic and said the purpose of the study was to listen to public concerns about Highway 93. He noted that Lori was correct that it only consisted of those people who chose to participate. He explained that generally, in terms of aesthetics, locations, safety, and wildlife, the answers were consistent. He said he gave the report to the County to see if they wished to proceed. He offered the assistance of himself and his students to Staff and the Planning Board. He recommended that the process move quickly, but involve public participation. He noted that people prefer to react to things rather than abstract concepts and said that might be one way to proceed.

**Jani Summers** said she heard that zoning could also affect the Eastside Highway. She read a letter her parents, landowners on Eastside Highway, wrote regarding zoning. (See Attachment H, Letter from Wallace and Donna Weber) As landowners with 270 acres they own as their retirement, her parents oppose zoning. She noted that her parents have been residents here for over 50 years and they should have a right to sell their property.

She agreed that zoning should start within a grassroots movement. She noted that zoning would affect a lot of people on Highway 93 as well.

**Karen Thompson** asked the width of the corridor to be considered.

**Karen** said that preliminary documents talked about one mile on each side, but the area of future planning is part of what will be determined. She noted that the County Commissioners thought that one mile on each side of the corridor was too wide.

**Karen Thompson** said that she owns property on the west of Highway 93 that would fall before and after the one-mile mark and asked how that would be addressed.

**Karen** said that the area for planning will have to be determined among the Board and County Commissioners. She noted that the discussion will involve the area and terms of process. She explained that the boards can choose a general area and as the planning process continues, narrow it down.

**Lori** noted that Ben Hillicoss was adamant about including Eastside Highway in zoning.

**Karen** noted that the Commissioners' discussion and Land Use Law Clinic Study was about the US Highway 93 Corridor, but noted that the Board can make recommendations.

**Dan** said that the area will come out of the process when they talk to the public and landowners. His personal opinion is that if the Board is looking at Highway 93, they should look at Eastside Hwy; whether it is done individually or tandem, both should be addressed at some point.

**Curtis Cook** suggested doing county-wide zoning instead of spot-zoning.

**Gary** said that the Board is proposing to make the corridor zoning part of the county zoning.

**Curtis Cook** said that to him, county-wide zoning does not sound like highway zoning.

**Karen** said that the Board has committed the Land Use Subcommittee to look at county-wide zoning. She noted that the County Commissioners asked in conjunction to look at different or more detailed zoning along the corridor than the other areas.

**Paul Wilson** asked what has been done to address issues such as wildlife corridors and limitations of access. He noted that the County needs a comprehensive, county-wide plan that can then accompany a corridor plan. He recommended involving landowners instead of striving for expediency because implementation without the landowners will result in failure. He noted that if a good, fair plan was presented, maybe the public would buy into it.

**Dan** noted that part of the issue is that the State has invested in Highway 93 and inappropriately placed growth could render that planning useless. He also noted that the Department of Transportation wanted zoning simultaneously to the construction of the highway.

**Barbara Kitchens** said that the Bitterroot Valley Board of REALTORS has tried to talk about zoning for a long time. She noted that in July, the Government Affairs Committee

put together a task force to establish a land-use inventory map and hopes to have the work completed by October. She explained that 70% of the County is State or federal land and less than 16% is not zoned. She said it is not like the County is not already zoned. She noted that there is no use distinction and so much perpetuity of some uses, that as they transfer to new uses, they want some control over how they look or become. She noted that her committee has been pursuing voluntary overlay. She noted that it could play into corridor areas, but transfers over to property uses and protects existing uses. She noted that the only method that will be open and publicly acceptable is a comprehensive plan process and noted that her group supports the work the Board is doing. She asked for an invitation to the table from the public stakeholders because more than just the government wants zoning.

**Dale** said that if Eastside Highway is not zoned, developers will develop the spot that is not zoned. He recommended zoning Eastside Highway if Highway 93 zoning is pursued. He voiced concerns about having a strip mall outside of Hamilton.

**Lori** asked if land already in voluntary zoning districts would be altered because of county-wide zoning.

**Karen** noted that citizens can petition for voluntary zoning at any time and noted that the County Commissioners said they want to honor existing voluntary zoning districts.

**Lori** said she thinks they should encourage people to come up with plan for how their property should look.

**Paul Wilson** noted it would be a good idea to have the County Commissioners require or suggest that the groups who want voluntary zoning consult with the Planning Department on their ideas and what is good land use planning.

**Karen** said they already have procedures suggesting that, but it cannot be made a requirement because it is not in State Law.

**Paul Wilson** asked how many people are taking advantage of voluntary zoning districts.

**Karen** said that there are two in public process and that is as much as has been seen in the last ten years. She noted before that, people did initial meetings, but a hard part of voluntary zoning is the petition process and developing regulations. She noted that zoning districts which rely on existing covenants go through quickly. She noted that the Planning Department is limited in how much Staff support they can give, but the County Commissioners said it was a high priority for the office.

**Jani Summers** asked that if the situation is deemed an emergency, if someone could wake up one day to no sales or development allowed on the corridor.

**Dan** said he foresees a lengthy public process with stakeholders involved.

**JR** said the process has been carried out from Lolo through Florence to Stevensville as part of the planning process for Highway 93. He said he was involved in the area from Sheafman Creek to the Silver Bridge. He noted that they reduced accesses by 40% and that the Highway Department made an effort to allow concentration of accesses in areas where accesses already existed, through driveway changes, etc. He noted that the next section to be constructed is from Hamilton to Sheafman Creek. He noted that from

Florence to Stevensville, there are not many agricultural accesses, but there are more accesses closer to commercial areas in Florence.

He noted that as the process continues, it will be natural to take into account what is already there. He noted that the Highway Department assesses the area and says which accesses are allowed. He guessed that natural barriers will limit how far on each side corridor zoning will reach and doubted that one mile on each side would happen. He noted that there are legitimate reasons to establish setbacks and put some zoning in place, but noted that the private sector has already clustered some uses on its own.

**Lori** said a volunteer group has offered to help. She asked if the Board is looking for design standards or density and noted that the discussion has been on design standards. She asked what the Board wants the Board of REALTORS to do.

**Les** suggested having realtors and other groups meet with the Land Use Subcommittee and talk about possibilities. He noted that the Committee needs to design some ideas as to where go, then latch on density zoning and widths. He said he hoped for more public participation.

**Lori** said she did not believe the public knew what was going on. She motioned to have groups meet with the Land Use Subcommittee and then come back to the Planning Board.

**Les** seconded the motion.

The Board unanimously agreed to the motion.

**Paul Wilson** asked who is on the Land Use Subcommittee.

**Dan** said that he, Les, and Ben are. Gary was on the Subcommittee and Tom may come back. He noted that people can volunteer and they would like members of the public for their input.

**Paul Wilson** said he did not feel the zoning situation is an emergency, but noted it is a high priority. He said it is a bad road if the County calls everything an "emergency" just to get things implemented.

#### (B) Discussion on Old Corvallis Road Area 3 Plan as a Growth Policy Amendment

(See Attachment I, Letter from Bitterrooters for Planning)

**Karen** said this item was placed on the agenda because early review by legal counsel said that the notice of the original hearing was fine and that the Board could follow the motion with a formal resolution. She noted that after further consideration, they decided it best to hold a new public hearing. She explained that she is working on scheduling a new public hearing to make sure all procedural requirements are met. She said she is considering an evening meeting on October 18 to accommodate the consultant's schedule.

**Les** asked if John Horwich can work with the Land Use Subcommittee to help develop some ideas for zoning in general.



**Karen** agreed that would be a good idea, but said she had not discussed it with John Horwich.

**14. Old Business**

There was none.

**15. Next Regularly Scheduled Meeting:** September 20, 2006 at 3:00 p.m.

- (A) McMillan Ranch, Lot 1A, AP (Wilkins) Minor Subdivision – Public Hearing
- (B) Sapphire Meadows (Kirschten) Major Subdivision and Two Variance Requests – Public Hearing

**16. Adjournment**

**Dan** adjourned the meeting at 9:28 p.m.